

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

JUN 26 2006

The Honorable William M. Thomas
Committee on Ways and Means
United States House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Thomas:


Thank you for your support for the U.S.-Oman Free Trade Agreement. I have enclosed a detailed assessment and supporting documents from our Ambassador in Muscat, Gary Grappo, regarding Oman's labor laws. I hope this letter will answer your questions as to the great progress being made on labor rights in Oman.

As you will see from the attached letter, the Government of Oman takes the issue of meeting international labor standards very seriously. Since Oman enacted its first major labor rights legislation in 2003, the Government of Oman government has been working hard to support the labor committees, apprise them of their rights, and ensure that they are strong, independent entities capable of representing the interests of workers in Oman.

In addition, in response to concerns raised by Congress, the Omani Ministry of Manpower is making progress on keeping the historic commitments made by Omani Commerce Minister Maqbool Sultan in his letters of March 26 to Chairman Thomas and May 8 to Ambassador Portman to enact certain labor law reforms by October 31, 2006.

Congressional passage of the U.S.-Oman Free Trade Agreement will not only bring important economic benefits to U.S. farmers and businesses, it will also encourage a good environment for labor rights in Oman. Equally important, passage of this Agreement will send a positive message to our friends and allies in the Gulf region that the United States is a good friend and a reliable partner.

Sincerely,



Susan C. Schwab



Embassy of the United States of America

Muscat, Sultanate of Oman
June 21, 2006

THE AMBASSADOR

The Honorable
Susan C. Schwab
United States Trade Representative
Office of the United States Trade Representative

Dear Madam Ambassador:

I have the honor to refer to the U.S.-Oman Free Trade Agreement currently pending approval in the U.S. Congress and a number of questions regarding labor rights in Oman that have been raised by Members during the course of their deliberations. With the following information, I hope to address those Congressional concerns and, in the process, validate the fact that Oman's protections of labor rights are sufficient to merit approval of this historic trade agreement with one of our country's most stalwart and strategically critical allies.

The Minister of Manpower (MOM) confirmed to me personally on May 13 that his Ministry is actively researching and preparing ILO-consistent legislation to meet the historic labor reform commitments Minister of Commerce Maqbool Sultan made in his March 26 letter to Ways and Means Committee Chairman Thomas and his May 8 letter to Ambassador Portman. Moreover, in talks with contacts throughout Oman, labor committee members and government officials have repeatedly assured my staff that, in practice, the government neither interferes with nor unduly involves itself in committee activities, but continues actively to support establishment of labor committees through private sector outreach and educational awareness. Moreover, while some committees and members continue to face their own organizational challenges, a few are already achieving significant success in negotiating better working conditions for their members.

The Omani government has acted energetically to address Congressional concerns on labor in order to win a successful outcome to the U.S.-Oman FTA vote in Congress. Senior government officials have assured me that Oman is

well on its way to fulfilling its labor reform commitments by the promised date of October 31. I believe they are sincere in this endeavor and that they are already complying with ILO core labor standards in practice, if not yet in law. I hope the information contained in this letter will serve to further illuminate these points. With regards to perceived government interference in the labor committees, let me be firm in assuring you that the Ministry of Manpower (MOM) is not intrusively overseeing labor union representative committee (RC) activities as permitted in Ministerial Decision 135/2004, and that the actual application of the labor law is already ILO-consistent.

In practice, committees do not give notice to the MOM prior to general assembly meetings; nor do they provide the MOM a copy of their agendas or meeting minutes. According to sources at the MOM and within the committees, no MOM official has ever attended a committee meeting; nor has the MOM banned any RC from meeting without prior approval. The MOM has never enforced restrictions in the labor law that require an RC to notify the MOM prior to joining any international organizations. In fact, several committee members recently participated in a regional workshop March 24-27 hosted by the Solidarity Center without having requested prior permission. Many committees have also hosted visiting delegations from the ILO and the Solidarity Center without notifying the MOM. To date, the MOM has never banned any of the committees from holding public festivals or presenting lectures without prior approval. To the contrary, committee members have expressed their displeasure at the MOM'S non-attendance at, and lack of involvement in, committee organizing events and activities.

Although permitted in Ministerial Decision 135/2004, MOM dismissal of committee leaders for "committing acts that cause material or moral harm" has never occurred, and MOM has never rejected an elected RC leader for failure to meet restrictions set out in previous ministerial decrees. One committee member recounted to my staff that an MOM representative told him "not to worry about restrictions in the law" with regards to establishing a committee because the MOM is more interested in encouraging their growth rather than in details of membership. As there are no official MOM application forms for establishing committees, employees wishing to establish a committee simply notify

the MOM with a letter of intent and a list of elected officials comprising their leadership board. To the Embassy's knowledge, no one has ever sought to establish more than one representative committee within a single enterprise.

The MOM has visited over 400 companies to educate the private sector and encourage establishment of representative committees. The MOM holds regular awareness sessions throughout the year to discuss labor rights and establishment of RCs, including one in February 2006 attended by the Minister himself that specifically discussed procedures for organizing a committee. Another session held in May addressed the role of the representative committees in developing regulations.

As a result, I believe that the government of Oman continues to make a good faith effort to ensure its compliance with ILO Conventions 87 and 98 until its reconstructed legislation is ready in October.

With regard to ensuring the right to organize and the development of committee leadership, the MOM has made significant strides in preparing implementing legislation for striking procedures, as well as ensuring the successful transition to a new and fully elected Main Representative Committee leadership in 2007.

As of May 13, thirty representative committees have been established, representing roughly 49,000 employees (Attachment 1). RCs have been established primarily in the construction, hotel service, transportation, oil and gas, telecommunications, and engineering sectors. There are no committees in the public sector, which is covered by Civil Service Law, but the labor law does not prohibit any category of worker from establishing worker committees. (Note: The Civil Service Law neither requires nor prohibits the formation of representative committees.) Of the committees established, company management holds officer positions in the Saud Bahwan Group, Omantel, Port Services, and Suhail Bahwan Group committees. The Embassy is unaware of senior company officers in any committees other than these. Candidates interested in leadership positions submit their name to their company's organizing committee and are chosen by secret ballot elections. General assembly members may also write in names, including

those of company management officers, who are also eligible for elected leadership positions.

Although Ministerial Decree 135/2004 delineates qualifications for leadership, such as the ability to speak and write Arabic, employment of at least one year, and having no felony convictions, the MOM has not denied candidacy to anyone failing to meet these regulations, and, in fact, has encouraged people to participate regardless of legal proscriptions. RCs currently represent the entire workforce of a company, including those who have been employed less than one year (Attachment I), since committees do not yet require applications for membership and do not have established procedures to collect dues. All workers are welcome to, and do, complain to the RC of the company.

Neither the Embassy nor the MOM has a statistical means to determine an employee's length of service with a particular company to determine if any have been employed for less than one year. However, sources within committees have reiterated on numerous occasions that "all" employees seeking representation, are represented; including those employed less than one year. As an example, Oman LNG, one of Oman's fastest-growing companies, employs about 350 expatriate employees, has a leadership member who is a non-Arabic speaker, and conducts its general assembly meetings in English. The Embassy has heard numerous credible statements from workers regarding the Ministry's encouragement of committees, regardless of requirements in language and length of employment. Committees are expected to maintain their own finances and are not regulated by the MOM.

The most active committee established thus far is the representative committee of the Grand Hyatt Hotel. A copy of their charter with accompanying by-laws is attached at the end of this letter (Attachment 2).

A February statistical bulletin confirmed that the current private workforce of Oman includes 102,455 Omanis and 438,531 expatriates. The public sector employs 22,898 expatriates and 104,223 Omanis. The total workforce of Oman is approximately 668,107 people, of whom roughly 708 are foreign workers. According to these figures, approximately

nine percent of the workforce is now represented by a union.

All established committees may participate in the national federation of unions, referred to as the Main Representative Committee (MRC). The law does not stipulate that RCs must join the MRC; however, all committees established to date have done so. Although the MRC is currently the only umbrella organization to represent Omani unions internally and abroad, additional legislation permitting the establishment of more than one federation is expected in summer 2006. All members of the MRC are chosen through secret ballot elections and there are no restrictions that would prohibit a manager from being elected. No candidates have been denied membership or terminated from the MRC.

Citing time constraints and the need to ensure attendance at the 2005 ILO General Assembly, the first MRC was appointed by the MOM from among elected members of the enterprise-level committees. The first full round of elections for the MRC is scheduled for May 2007. The MRC today comprises of the following individuals:

Abd al-Azim bin Abbas al-Bahrani
Director of Human Resources, Omantel

Sa'ud bin Ali Abdulla al-Jabri
Engineer, Petroleum Development Oman Co.

Muhammad bin Abdulla Rashid al-Rasbi
Engineer, Oman Air

Anwar bin Abd al-Rahman al-Khinjari
Director of Human Resources. Muscat Intercontinental Hotel

Nabhan bin Ahmad Muhammad al-Battashi
General Affairs Officer, Grand Hyatt Muscat

Sa'ud bin Ahmed Abd al-Karim al-Nahari
Executive President of Port Services Corporation, Port Sultan Qaboos

Muhammad Hamad Salim al-Ruzaiqi (withdrawing from the MRC)
General Manager of Human Resources, Galfar Engineering

Aida al-Hashmy
General Officer, Muscat Intercontinental

Muhammad bin Khamis bin Ghaloum al-Khabouri
Assistant Human Resources Manager, Al Hasan Group of
Companies

Rashid bin Sa'id Abdulla al-Hashmi
Personnel Manager, Sa'ud Bahwan Group of Companies

Issam al-Sheiban
Quality Assurance Officer, Oman Oil Refinery

Abd al-Mahdi bin Abd al-Baqi al-Lawati
Personnel Manager, Al Zubair Group of Companies

Abdulla bin Salim Sa'id al-Araimi
Manager of Human Resources, Suhail Bahwan Group of
Companies

The growing number of unions and increasing participation in committees are due to the significant outreach and awareness performed by the MOM. Although the MOM recognizes the potentially problematic participation of senior officers in some of the committees, a move away from this tendency will take some time, given deeply ingrained cultural traditions that still place importance on tribal affiliations and highly value an individual's personal influence with decision-makers (termed "wasta"). Historically speaking, workers with issues have generally approached human resource representatives or committee members with problems because of these individuals' known connections and ability to get things done. The MOM, as well as the committees, believes that it is more important now to raise awareness about the MRC and RC's roles and promote membership rather than focus on technical limitations of the law.

The representative committees are experiencing growing pains in terms of organization and management. The MRC has not yet moved into a permanent office space or established a bank account to manage its finances. In spite of logistical issues, however, MRC members continue to meet regularly with the International Labor Organization (ILO) and the Ministry of Manpower to discuss technical assistance and other needs to support a fully functioning

MRC. Moreover, the MRC continues to mediate disputes and is informed of complaints with the MOM. The figures in Attachment 1 are a breakdown of total employees at each company with an elected union.

As part of its outreach and organization, the MRC recently established four sub-committees to focus on specific areas of concern:

- 1) External Relations - manages conferences and is headed by mid-level officer Saud al-Jabri of Petroleum Development Oman;
- 2) Rights and Duties - headed by Oman's busiest labor advocate, Nabhan al-Battashi, of the Grand Hyatt Hotel Muscat;
- 3) Articles of Association and Membership - serves as a resource for newly established committees and is headed by Abdullah al-Araimi; and
- 4) Women's Issues - is led by new MRC member Aida al-Hashmy of the Al-Bustan Palace Hotel and promotes women in the workforce.

Several members of the MRC were in Geneva for the ILO General Assembly that just concluded on June 16. The Omani delegation consisted of 26 elected committee representatives, government officials, and private sector employers. In addition to more experienced members Saud al-Nahari and Abduladheem Abbas, junior MRC members Saud al-Jabri, Aida al-Hashmy, and Nabhan al-Battashi are attending the ILO for the first time. The government fully funded the participation at the ILO's annual meeting for a tripartite delegation of one employer, government official and one labor representative. The MOM has further supported the attendance of the other MRC members by officially requesting that companies allow designated representatives the necessary time off and pay for their travel.

The ongoing changes at the MOM and within the representative committees have had a significant impact on all union members. The MRC has been active in mediating disputes and performing outreach. Nabhan al-Battashi, head of the Rights and Duties subcommittee, makes frequent trips throughout the country to promote the establishment of committees and liaise with private sector management to educate companies on the labor law and the important role of the committees. Two recent trips included visits to al-

Jazeera Tube Mills in Sohar and Oman Flour Mills in Salalah. Although both companies were initially skeptical of the idea of a representative committee, company managers not only agreed to allow company time to hold meetings, but also provided space for the new committees as well.

At the enterprise level, the RC of the Grand Hyatt has made the most significant progress in negotiating better working conditions and advocating on behalf of its committee members. In recent months, the Re's president negotiated a new vendor contract for employee meals, reached an agreement to prohibit smoking in the staff cafeteria, secured an annual bonus for all staff, ensured payment of overtime, and negotiated for four percent of the hotel's service charge to be paid directly to employees; a monthly increase of \$209 for every employee. As a result of the committee's significant achievements, the Grand Hyatt dramatically reduced resignations from 166 in 2005 to zero for the calendar year to date.

Although the law does not yet explicitly permit workers the right to strike (an omission to be corrected by October 31), the 1972 ban on strikes no longer exists. However, the absence of a clear legal authority to strike has not prevented employees from exercising that right. In 2004, there were 33 strikes involving 6,000 workers and four strikes involving 1,083 workers in 2005. There are no restrictions on the right to strike and no activities associated with striking are grounds for dismissal; nor have any strikes been declared illegal. Most strike demands revolve around back payment of wages and improving living and working conditions. The MOM'S mediation and dispute resolution bureau is the preferred vehicle for resolving disputes. In the event that a case proceeds to the courts, judges have overwhelmingly ruled in favor of the workers.

In 2005, there was one reported collective complaint that occurred during one of Oman's most widely publicized strikes. As described in Attachment 3, workers at Salalah Port closed Oman's largest seaport for two days while the MRC and the MOM negotiated the reinstatement of a committee representative who had been fired. Although the worker was briefly reinstated at the government's insistence, his case is now pending the decision of the labor courts. He was a

member of the leadership board of the company's RC, but not its president.

In addition to the strike, workers took the opportunity to successfully renegotiate working hours and split-shift schedules. Although there are no penalties yet for anti-union discrimination (still under discussion), as evident by the Salalah example, the MOM and Oman's labor courts do not tolerate wrongful dismissal. Moreover, there have been no reported cases of an employer refusing a worker's organization's request to negotiate collectively. Nevertheless, an individual labor contract is the basis of every employer-employee relationship, regardless of nationality or employment status.

To date, the case above has been the only one of an individual terminated who was also a member of a representative committee. That worker was terminated for poor work. Management kept detailed records of his inadequacies on the job and poor performance. Since he was a member of the company's union, RC leaders attempted to negotiate his reinstatement. Although he was briefly reinstated after government and MRC intervention, his case is now with the courts.

Neither employers nor managers have challenged the right of workers to form a representative committee; moreover, labor organizing is not grounds for dismissal or arrest. While the MOM keeps a variety of labor statistics, such as complaints, investigations, labor clearances, and labor force statistics, there have been no reported cases of workers suffering retaliation for participation in RC activities. As with any labor dispute, workers are encouraged to submit complaints to the MOM and may sue employers for wrongful dismissal. Labor courts favor the worker in the majority of cases, regardless of the reason for termination. Current protections against wrongful dismissal are covered in Article 106 of the Omani Labor Law. There have been no reported cases of wrongful termination or retaliation either through the MOM hotline or from the MRC. For an example of cases where court action was taken against employers, please see Attachment 4.

Regarding the protection of foreign workers and child labor, the government is making significant strides in enhancing awareness and protection for its expatriate

workforce. Foreign workers in Oman make up roughly 70 percent of the total labor force. Those foreign laborers tend to concentrate in just a few sectors, and are distributed in the following manner:

Construction	28.2%
Wholesale/Retail	20.1%
Domestic Servants	13.4%
Manufacturing	11.8%
Agriculture	10.7%
Hotels/Restaurants	5.9%
Health/Education/ Community/Real Estate	10.0%

According to the 2003 Census, the nationality of expatriate workers with valid labor cards in the private sector is divided as follows:

Nationality	Percent	Total Number
Indians	60.8	247,590
Bangladeshis	17.1	69,569
Pakistanis	11.6	47,207
Sri Lankans	1.9	7,560
Other Arabs	1.4	5,809
Egyptians	1.2	4,785
Filipinos	1.0	4,135
Other Nationalities	5.0	20,531
2003 Gross Labor Force	100.0	407,186

Additional information on expatriate labor statistics can be found in Attachment 5.

The MOM, the MRC and embassies perform regular outreach to educate workers on their rights. Moreover, human resources (HR) officers of most companies provide relevant employment information as a matter of standard HR practice and as part of their labor contract. The Labor Law is also available on the internet (<http://directoryoman.com/labourlaw.htm>) and the MOM operates a 24-hour hotline for questions and complaints. Regular featured articles in some local newspapers discuss the labor law and implementing regulations. While some employers have reportedly held passports of foreign workers, the MOM asserts that this practice is not permissible and that legislation to that

effect will be forthcoming. There are no statistics on employers withholding passports, although the Embassy understands there have been cases in which the MOM or the Labor Courts have interceded to get employers to return passports or other legal documents. Forced labor is prohibited by Oman's Basic Law and persons convicted of the crime can be sentenced to five to fifteen years in prison. Oman has ratified ILO Convention 29 on Forced Labor and ILO Convention 105 on the Abolition of Forced Labor.

Child labor is also prohibited by Oman's Basic Law and existing labor law (Article 12 of Oman's Basic Law and Articles 75-79 of the Labor Law). Oman ratified ILO Convention 138 on the Minimum Age for Admission to Employment and ILO Convention 182 on the Worst Forms of Child Labor. The minimum age for employment is 15 years and minors (aged 15-18) are permitted to work only between the hours of 6 a.m. and 6 p.m. Minors are prohibited from working in hazardous occupations, may not work on weekends or holidays, may not work for more than six hours in a day, and are prohibited from working overtime. Workplaces that employ minors are required to post certain items for display, including: a copy of the rules regulating the employment of children; an updated log with the names of minors employed in the workplace and their ages and dates of employment; and a work schedule showing work hours, rest periods, and weekly holidays. For further information, please refer to the U.S. Department of State's 2005 Human Rights Report - Oman.

Forced or compulsory labor by children is specifically prohibited by law. Employers who violate the child labor provisions of the Oman Labor Law are subject to a fine of \$260. A second violation within a year can result in imprisonment for one week. In practice, most employers will ask prospective employees for a certificate indicating that he or she has completed basic education. Considering that most children usually begin their basic education at age 6, this means that workers, in most cases, will be at least 16 years old when they begin work. It is prohibited for a foreign worker under the age of 21 to receive a visa to work in Oman. There have been no substantiated incidents of illegal child labor.

Labor inspections are a key component of ensuring employer compliance with the labor law. The Labor Care Directorate

of the MOM is responsible for enforcement of, and compliance with, workplace laws and regulations. Its responsibilities include: occupational safety and health, labor inspections, dispute settlement, female employment, liaising with the Main Representative Committee, issues related to child labor and forced labor, and resolution of individual and collective labor disputes. In 2005, the MOM employed approximately 82 labor inspectors who conducted 4,541 workplace inspections (representing 99,897 workers, the equivalent of 19 percent of the workforce), including an unknown number of random inspections. Labor inspectors are spread throughout the Sultanate.

The Labor Care Directorate of the MOM also maintains the Ministry's 24-hour hotline (English and Arabic) for workers throughout Oman to report complaints, offer suggestions or seek responses to questions about the labor law. The hotline is in both English and Arabic, though there are personnel available for local dialects not featured in the hotline. The MOM estimates that while it takes thousands of general inquiries a year on the hotline, it only receives about 150 complaints that require formal processing and action. Of the approximately 50 calls received every day on average, 146 formal actions have been filed since January 1, 2006. Detailed information on the Ministry's budget is not published or available.

Although committee members, businesses, and workers continue to work to understand the new labor climate and their labor rights under the 2003 Labor Law, all expect significant changes in the coming months as a result of Minister of Commerce and Industry Maqbool Sultan's commitments to Congress, and the hoped-for ratification of the US-Oman Free Trade Agreement. Committee members and MOM officials both assert that as far as the practice of the law goes, committees are already working within an ILO consistent framework.

Madam Ambassador, I hope you find this letter helpful in responding to the inquiries of Congress as it considers ratification of this important trade agreement. The U.S. and Oman have enjoyed a long and prosperous history together, pre-dating even our first Treaty of Amity and Commerce of 1833. In more recent times, Oman has been a critical partner in the Global War on Terror and such military operations as Desert Shield, Desert Storm,

Enduring Freedom, and Iraqi Freedom. Since 1980, the Sultanate has been our key partner in the protection of vital American security interests in the Strait of Hormuz, which separates Oman from Iran by just 35 miles, and through which is transported over 40% of the world's petroleum supplies. Oman is a bastion of stability in a turbulent region, and has benefited from one of the most responsible, tolerant and law-based governing systems and societies in the Middle East. The U.S.-Oman Free Trade Agreement will be yet another proud landmark in a vital relationship stretching back over 200 years, and deserves the wholehearted support of our Congress.

Sincerely,

A handwritten signature in cursive script, reading "Gary A. Grappo", followed by a long horizontal flourish line.

Gary A. Grappo

Attachments:

1. Representative Committees
2. Charter of the Grand Hyatt
3. Salalah Strike
4. Labor Dispute Court Case
5. Labor Statistics